

REMARKS

The application is believed to be in condition for allowance.

Applicant acknowledges that the previous Notice of Allowance has been withdrawn.

Rejections under 35 USC 103

Claim 1 stands rejected as obvious over TAKEDA et al. WO 02/101773 in view of SAITO et al. 6,962,612.

Claim 2 stands rejected as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and JP 2000173864.

Claim 3 stands rejected as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and JP 2000173864 and ARORA et al. RE 31,743.

Claim 5 stands rejected as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and ARORA et al. RE 31,743.

TAKEDA et al. WO 02/101773

TAKEDA et al. WO 02/101773 has a publication date of December 19, 2002 and hence that reference date in the United States. Note that TAKEDA et al. WO 02/101773 was not published in English and therefore is not entitled to a 35 USC 102(e) date. See the MPEP flowchart indicating such a document is only entitled to the 35 USC 102(a) or 102(b) dates.

The present application is a National Stage application of PCT/JP03/14217 of November 7, 2003. The PCT claims priority to JP 2002-326720 filed on November 11, 2002; JP 2002-326718 filed on November 11, 2002; JP 2002-326019 filed on November 8, 2002; and JP 2002-326028 filed on November 8, 2002.

Attached are verified English-language translations of each of the Japanese priority applications. Filing these translations perfect applicant's claim of priority to at least November 11, 2002.

Thus, TAKEDA et al. WO 02/101773 is not prior art to the present application.

Withdrawal of the Rejections under 35 USC 103

In view that TAKEDA et al. WO 02/101773 is not prior art to the present application, applicant solicits withdrawal of the rejections of:

Claim 1 as obvious over TAKEDA et al. WO 02/101773 in view of SAITO et al. 6,962,612;

Claim 2 as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and JP 2000173864;

Claim 3 as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and JP 2000173864 and ARORA et al. RE 31,743;

Claim 5 as obvious over TAKEDA et al WO 02/101773 in view of SAITO et al. 6,962,612 and ARORA et al. RE 31,743.

Rejections based on Non-Statutory Double Patenting

Claim 1 stands rejected on the ground of nonstatutory obviousness-type double patenting over claim 20 of US Patent No. 7,072,173 in view of SAITO et al. 6,962,612.

Claim 2 stands rejected on the ground of nonstatutory obviousness-type double patenting over claim 20 of US Patent No. 7,072,173 in view of SAITO et al. 6,962,612 and JP 2000173864.

Claim 3 stands rejected on the ground of nonstatutory obviousness-type double patenting over claim 20 of US Patent No. 7,072,173 in view of SAITO et al. 6,962,612 and JP 2000173864 and ARORA et al. RE 31,743.

Claim 5 stands rejected on the ground of nonstatutory obviousness-type double patenting over claim 20 of US Patent No. 7,072,173 in view of SAITO et al. 6,962,612 and ARORA et al. RE 31,743.

The rejections based on nonstatutory obviousness-type double patenting are respectfully traversed.

The Official Action states on page 7 that claim 20 of US Patent No. 7,072,173 discloses "an electrolytic capacitor comprising a capacitor element fabricated by winding an anode foil, a cathode foil and a separator; and an electrolyte solution containing aluminum tetrafluoride salt."

In response, Applicant has carefully reviewed the reference and fails to find a number these elements in the claim cited by the Official Action.

In particular, claim 20 of US Patent No. 7,072,173 recites "An electrolytic capacitor electrolyte, comprising: a tetrafluoroaluminate ion, wherein the tetrafluoroaluminate ion is contained in the form of at least one salt selected from the group consisting of quaternary onium salts, amine salts, ammonium salts and alkali metal salts of tetrafluoroaluminate."

Claim 20 does not depend from any other claim. Hence, claim 20 merely recites an electrolyte.

Claim 20 fails to recite an electrolytic capacitor, as recited by claims 1-3 and 5 of the present application. Claim 20 further fails to recite any of an anode foil, a cathode foil, a separator, or any other structural feature required by claims 1-3 and 5 of the present application.

A double patenting rejection is appropriate only where the claims of the issued patent correspond to the claimed subject matter of the application. "Since the doctrine of double patenting seeks to avoid unjustly extending patent rights at the expense of the public, the focus of any double patenting analysis necessarily is on the claims in the multiple patents or patent applications involved in the analysis" (MPEP § 804).

Here, claim 20 as offered by the Official Action in support of a non-statutory double patenting rejection, fails to recite the same or an obvious variant of the claimed subject matter of any of the claims of the application. Neither does the Official Action content, much less demonstrate, that an

electrolytic capacitor having the features of present claims 1-3 and 5 is an obvious variant of an electrolyte.

As to the double patenting rejections based on the US Patent No. 7,072,173 and SAITO et al. 6,962,612, the Official Action on page 7 contends that it would have been obvious to modify a sealing member of US Patent No. 7,072,173 to make the same resistant to electrolyte leakage. However, claim 20 of US Patent No. 7,072,173 does not recite a sealing member in the first instance. Hence, the Official Action's position in this respect is believed to be not well-founded.

Accordingly, it is respectfully submitted that the Official Action fails to satisfy the elements of the rejection of non-statutory double patenting in view of the references and claims presented. Withdrawal of the rejections of claims 1-3 and 5 is thereby respectfully solicited.

Allowance of all the claims is solicited.

From the foregoing, it will be apparent that Applicant has fully responded to the August 19, 2008 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Jeremy G. Mereness/
Jeremy G. Mereness, Reg. No. 63,422
209 Madison Street
Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

REL/JGM/jlw

Appendix:

The Appendix includes the following items:

- verified translation of JP 2002-326028
- verified translation of JP 2002-326019
- verified translation of JP 2002-326718
- verified translation of JP 2002-326720